

Notice of Allowability

Application No.

09/829,314

Examiner

Robert C. Scheibel

Applicant(s)

DZIK, STEVEN C.

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Appeal Brief filed 9/18/2006.
2. ☒ The allowed claim(s) is/are 1-35.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>20061206</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Eamon J. Wall (Reg. No. 39,414) and Michael Bentley (Reg. No. 52,613) on December 5, 2006.

The application has been amended as follows:

- In line 15 of claim 1, "second packet according to" has been corrected to -- second packet, using at least one pitch period associated with a pitch of the second packet, according to --.
- In line 1 of claim 2, "said adjusting" has been corrected to -- said adjusting said length of said first packet --.
- In lines 12-13 of claim 13, "second packet according to" has been corrected to -- second packet, using at least one pitch period associated with a pitch of the second packet, according to --.
- In lines 1-2 of claim 14, "said adjusting" has been corrected to -- said adjusting said length of said first packet --.
- In line 17 of claim 25, "second packet according to" has been corrected to -- second packet, using at least one pitch period associated with a pitch of the second packet, according to --.

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- In line 15 of claim 26, “second packet according to” has been corrected to -- second packet, using at least one pitch period associated with a pitch of the second packet, according to --.
- In line 13 of claim 27, “second packet based on” has been corrected to -- second packet, using at least one pitch period associated with a pitch of the second packet, based on --.
- In line 1 of claim 29, “said play time” has been corrected to -- said play time of said first packet --.

2. The following is an examiner’s statement of reasons for allowance:

Regarding claim 1, the subject matter is allowable as the prior of record does not disclose the limitation of “adjusting the length of the second packet, using at least one pitch period associated with a pitch of the second packet, according to the adjusted length of the first packet and an arrival time of a third packet received after the second packet” in combination with all the other limitations of this claim. Similarly, regarding claims 13, 25, 26, and 27, the prior art of record does not disclose or suggest the analogous limitation regarding adjusting the length or play time of the second packet in combination with all the other limitations of these claims.

Claims 2-12, 14-24, and 28-35 are allowable as they depend from allowable claims 1, 13, and 27.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert C. Scheibel whose telephone number is 571-272-3169. The examiner can normally be reached on Monday and Thursday from 7:00-5:30 Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema S. Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RCS 12-7-06
Robert C. Scheibel
Patent Examiner
Art Unit 2616

Seema S. Rao 12/11/06
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